

## CONDOMINIUM AUTHORITY TRIBUNAL

**DATE:** June 15, 2021

**CASE:** 2021-00145N

**Citation:** Naderi v. Toronto Standard Condominium Corporation No. 2763, 2021 ONCAT 51

Order under section 1.41 of the *Condominium Act, 1998*.

**Member:** Ian Darling, Chair

**The Applicant,**

Nasim Naderi  
Self-Represented

**The Respondent,**

Toronto Standard Condominium Corporation No. 2763

### **DISMISSAL ORDER**

[1] The Applicant filed an Application with the Condominium Authority Tribunal (CAT). Under the CAT's Rules of Practice, the CAT can dismiss an application that it has no legal power to hear or decide. The Application was filed as a storage dispute with respect to compliance with the Condominium's governing documents. The problem description describes a contractual dispute. The Applicant alleges that they did not receive the locker referred to in the pre-construction purchase contract. The CAT proposed to dismiss the case after reviewing the problem description and Applicant's documentation for the following reasons:

1. The Applicant filed this case as a compliance dispute.
2. The provisions of the Respondent's declaration cited by the Applicant (sections 4.8.e.ii & 5.3.b) do not appear to prohibit, restrict or otherwise govern parking and / or the storage of items.
3. Accordingly, a storage dispute regarding these provisions would appear to be outside of the CAT's jurisdiction, as set out under Ontario Regulation 179/17.
4. It appears that portions of the dispute relate to the determination of title to real property. The CAT is prohibited from accepting applications involving these matters under section 1.36 (4) (b) of the *Condominium Act, 1998*.

- [2] The Tribunal issued a Notice of Intent to Dismiss the case on May 27, 2021. It asked the parties to respond to the concerns with the case. The Applicant and Respondent were given a chance to respond to the Notice. The Respondent did not participate in the process.
- [3] In their response to the Notice, the Applicant replied that the case was within the CAT's jurisdiction because the storage units were specified in the Condominium declaration. They further indicated that the Corporation had not complied with the declaration because the actual lockers differ from drawings for the locker area which form part of the declaration.
- [4] After reviewing the Application, response to the Notice and associated documents, I have determined that the CAT has no legal power to decide this dispute. The Applicant is correct that sections 4.8 e.ii & 5.3b of the declaration refer to the storage lockers, but that is not enough to bring the dispute within the CAT's jurisdiction. Ontario Regulation 179/17 establishes the Tribunal's jurisdiction. Section 1.(1)d.iii specifies that it relates to disputes related to:
- provisions that prohibit, restrict or otherwise govern the parking or storage of items in a unit, an asset, if any, of the corporation, or any part of a unit, an asset or the common elements, that is intended for parking or storage purposes.
- The Applicant has failed to demonstrate that this dispute relates to provisions that prohibit, restrict, or otherwise govern the storage of items.
- [5] I find that the issues that make up this dispute are not within the jurisdiction of the CAT. Accordingly, I order that this case be dismissed.

## **ORDER**

- [6] The Tribunal orders that the Application is dismissed.

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Ian Darling  
Chair, Condominium Authority Tribunal

Released on: June 15, 2021